



Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2017–0018; FXES11130900000 178 FF09E42000]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to Remove the Bone Cave Harvestman From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove the Bone Cave harvestman (*Texella reyesi*) from the List of Endangered and Threatened Wildlife (i.e., “delist” the species) under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. However, we ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the Bone Cave harvestman or its habitat at any time.

DATES: The finding announced in this document was made on [INSERT DATE OF FEDERAL REGISTER PUBLICATION].

ADDRESSES: A copy of the petition is available on <http://www.regulations.gov> under Docket No. FWS–R2–ES–2017–0018, or by request from the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758; telephone

512-490-0057; or facsimile 512-490-0974. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

At the time we received the petition discussed below (June 2, 2014), the standard for substantial scientific or commercial information with regard to this 90-day petition finding was “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that a petition presents substantial scientific or commercial information, we are required to promptly commence a review of the status of the species, and we will subsequently summarize the status review in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be delisted for one of three reasons: extinction, recovery, or the original data for classification were in error. A species may be determined to be an endangered or threatened species for the purpose of listing, or recovered for the purpose of delisting, as result of an assessment of the five factors described in section 4(a)(1) of the Act.

Evaluation of a Petition to Delist the Bone Cave Harvestman, Which Is Listed as an Endangered Species Under the Act

Species and Range

The Bone Cave harvestman (*Texella reyesi*) occurs in Travis and Williamson Counties, Texas, and was listed as an endangered species on September 16, 1988 (53 FR 36029). See 58 FR 43818, August 18, 1993, for more information.

Petition History

On June 2, 2014, we received a petition from John Yearwood, Kathryn Heidemann, Charles and Cheryl Shell, the Walter Sidney Shell Management Trust, the American Stewards of Liberty, and Steven W. Carothers requesting that we remove the endangered Bone Cave harvestman from the Federal List of Endangered and Threatened Wildlife. The petition clearly identified itself as a petition and included the requisite identification information for the petitioners, as required at that time in 50 CFR 424.14(a). The Service and National Marine Fisheries Service (“Services”) revised the regulations at 50 CFR 424.14 to clarify the procedures under which the Services evaluate petitions effective October 27, 2016 (81 FR 66462; September 27, 2016). We originally received the petition that is the subject of this document on June 2, 2014, with supplemental information received on October 6, 2016. We, therefore, evaluated this petition under the 50 CFR 424.14 requirements that were in effect prior to October 27, 2016, as those requirements applied when the petition and supplemental information were received. At that time, our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding was “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)(1)). On June 1, 2015, the Service published a 90-

day finding in the **Federal Register** (80 FR 30990) that the petition did not present substantial scientific or commercial information indicating that the petitioned action was warranted. On December 15, 2015, the American Stewards of Liberty, Charles and Cheryl Shell, Walter Sidney Shell Management Trust, Kathryn Heidemann, and Robert V. Harrison, Sr., challenged the June 1, 2015, 90-day finding in Federal district court. The Service sought the court's permission to reconsider the 90-day finding. On December 22, 2016, the court ordered the Service to complete a 90-day finding and deliver that finding to the **Federal Register** on or before March 31, 2017, and subsequently extended to May 1, 2017. This finding addresses the court's order and the 2014 petition.

Recently, we began publishing multiple 90-day petition findings in a single, batched **Federal Register** notice and using a template format for supplementary information for each finding, to ensure consistency and transparency among findings. We are providing the supporting information for this finding in both the former single-petition **Federal Register** notice format that was used for the prior finding, and the new batched-notice template format. Both of these rely on identical information and can be found along with this **Federal Register** notice at Docket No. FWS–R2–ES–2017–0018. The prior traditional **Federal Register** notice also includes some additional information not included in the petition review form with respect to information such as representation, redundancy, and resilience.

Finding

Based on our review of the petition, sources cited in the petition, and the additional information provided, we find that the petition does not present substantial scientific or commercial information indicating that delisting the Bone Cave harvestman may be warranted. Although this finding ends our formal consideration of the petition, we are in the process of

conducting a species status assessment and 5-year status review of the Bone Cave harvestman. Specifically, section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. On April 15, 2015, we published a notice in the **Federal Register** initiating this review (80 FR 20241). The purpose of a 5-year review is to ensure that listed species have the appropriate level of protection under the Act. In this case, we are developing a species status assessment as a tool to inform the 5-year status review. The 5-year review will consider whether the species' status has changed since the time of its listing or its last status review and whether it should be reclassified as threatened or delisted. We invite the public, including the petitioners and other interested parties, to submit new data and information for consideration in this ongoing process.

The basis for our finding on this petition, and other information regarding our review of this petition can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R2–ES–2017–0018 in the Supporting Documents section. This 90-day finding supersedes the Service's previous June 1, 2015, 90-day finding, and is made pursuant to the court's December 22, 2016, order; the 2014 petition; and the additional reference materials accompanying the petition.

References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, above).

Authors

The primary authors of this notice are staff members of the Austin Ecological Services Field Office.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 20, 2017

James W. Kurth

Acting Director, U.S. Fish and Wildlife Service.

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